DOCUMENT RESUME

ED 264 344 UD 024 613

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TITLE The Impact of the Brown Decision on Higher Education.
PUB DATE 84
NOTE 13p.; In: Brown v. Board of Education of Topeka: An Assessment Thirty Years Later (Institute, West Virginia, February 10-11 and April 11-13, 1984). For proceedings, see UD 024 606.
PUB TYPE Speeches/Conference Papers (150) -- Viewpoints (120) -- Reports - Descriptive (141)

EDRS PRICE MF01/PC01 Plus Postage.
DESCRIPTORS Affirmative Action; *College Desegregation; Higher Education; *Racial Integration; School Desegregation
IDENTIFIERS Civil Rights Act 1964 Title VI; *West Virginia University

ABSTRACT

This paper, by the president of West Virginia University (WVU), discusses the impact of the Brown decision on that institution and on higher education in general. Following the Gaines decision of 1938, WVU adopted a policy of admitting Black students to its graduate and professional schools because advanced educational programs were not available at the then strictly black West Virginia State College or Bluefield State. In 1954, after some initial hesitation, WVU followed the State attorney general's advice that the Brown decision applied to State institutions of higher learning. WVU integrated promptly thereafter, without the incident or public furor that occurred in other southern schools. As a land grant institution, WVU receives significant Federal funding and is therefore subject to Title VI non-discrimination requirements. Efforts to improve minority recruitment and retention include establishing a minority scholarship fund, outreach visits to potential applicants, and support activities on campus. Finally, WVU has made efforts to recruit and retain minority faculty and staff. (KH)

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THE IMPACT OF THE BROWN DECISION ON HIGHER EDUCATION

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President, West Virginia University

Presented at the Symposium celebrating Brown v. Board of Education Supreme Court Decision of 1954 (Institute, WV, February 10-11 and April 11-13, 1984).

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THE IMPACT OF THE BROWN DECISION ON HIGHER EDUCATION

Dr. G. Gordon Gee
President, West Virginia University

Thank you very much--I just managed to make a stunning entry by spilling water all over my speech. Tom, I appreciate very much that introduction and I must say that, that reminds me of an opportunity, while someone cleans up this thing, to tell a little story that I love to tell sometimes. The introduction was very warm indeed and Tom and I have been in our positions almost the same time and I want you to know that I think that he is doing a magnificent job, not only for West Virginia State College but certainly for West Virginia, and his brand of leadership is one that we can all emulate.

As president of the University, though, I often have an opportunity to be introduced and very often these introductions go on at length. Fortunately his was short and so, therefore I can tell this story because I am not telling it on him. But there was a man by the name of Chauncey Depew who served as senator from New York many years ago, around the turn of the century. Chauncey Depew was a very able lawyer, a great advocate and a great orator. After leaving the Senate, he made his living by going around the country and speaking. One of the favorite things he did was to introduce other people. He would love to go and give rather substantial introductions of other people. He reached that ultimate in his career, he felt, when he was given an opportunity to introduce William Howard Taft. Now, Dr. Wallace, I hope he doesn't mean anything to you, but William Howard Taft was governor of Ohio, then was Governor General of the Phillipines and then was elected President of the United States. He reached that ultimate in his career when he was appointed Chief Justice of the United States. The only man in the history of our country to serve as both the chief executive officer of our nation and the

chief judicial officer. He had always wanted to be the chief justice and, frankly, was not very happy as president anyway. When he came to this small community, Chauncey Depew was asked to introduce him. Chauncey Depew got up and spent 45 minutes introducing him and the introduction went on and on and on. The audience started to yawn. They couldn't quite believe that this was taking place but finally he finished the introduction. One of the things you have to know about William Howard Taft is that not only was William Howard Taft a great American, he was a large American. He weighed well over 300 pounds, he was a huge man and so at the end of this introduction, Chauncey Depew turned to him and said, "Ladies and gentlemen, I want to present to you the Chief Justice of the United States, a man pregnant with ideas, a man pregnant with creativity." He sits down and William Howard Taft waddles to the podium and his stomach sort of falls over it, he pats it a little bit and he said, "Well, ladies and gentlemen, if it be a girl I'll name her Kathleen, if it be a boy I'll name him William but if as I suspect, it be gas I'll name it Chauncey Depew." They now have it cleaned up Tom, so I can get along with my speech, can't I?

I would like to note how pleased I am to see students in the audience. We have some 22,000 students on our campus and Tom, they are a pleasure every day. I love to collect graffiti on my campus and right down below where we live, are the residence houses for our freshmen. We have some 2,200 freshmen that live in residence houses right behind us. It's great fun living next to 2,200 freshmen, let me assure you. Anyway, the other day I am driving down the road and we have a small program for gifted students, young gifted students, 3, 4, and 5 years old. Anyway, they have this sign up there that says "slow children" and below it one of our clever freshmen put up one of these cardboard signs that says "grow up to work for the post office." Well, I thought I would just share that with you.

Today, I might note, Tom, that we are going to be talking about Brown v. the Board of Education. Before I make my presentation, just a little personal note. Chief Justice Earl Warren, who wrote the decision, was an interesting man. I happened to have an opportunity to meet him when I was working for Chief Justice Warren Berger. He was still alive at the time and had an office in the Supreme Court and one evening very very late, I went down into the basement of the Court where the cafeteria was and I walked in and here was this white-haired gentleman sitting there all by himself around 10:30 in the evening. I looked at him and it was indeed Earl Warren, a man that one admires. In fact, he was one of my heroes and here is an opportunity for a young guy working at the Supreme Court to speak with him, and I walked over and just introduced myself and he said sit down. We happened to carry on a conversation of some 2 hours of which I recorded in my journal in a variety of very interesting things. Of course, Earl Warren was appointed, Tom, by Dwight D. Eisenhower. Later, Eisenhower said that the greatest mistake he ever made was to appoint Earl Warren as Chief Justice. He was appointed because Eisenhower (a) felt he was a conservative and (b) because he felt that he would deal with the Brown decision, which was pending at that time, in precisely the opposite way from which he dealt with it and so it shows what can happen when one puts on those judicial robes. Anyway, I asked him, I said, "Mr. Chief Justice, have you enjoyed your tenure at the Court?" He said yes, he really did. But, I happen to know who his chauffeur and the bodyguard was. I had met him at the Court and the bodyguard would tell me they would get in the old court Lincoln and drive to New York where no one could recognize the Chief Justice and they would go to Yankee baseball games. During this course of conversation, I said, "Well, I understand you enjoy baseball." And, he was a great baseball fan. He said, "You know, the greatest disappointment in my life was that I was appointed Chief Justice of the United States and not appointed the commissioner of baseball." And I remember that

so well. I thought that kind of an interesting vignette, in light of the Brown decision that we are dealing with today, would be something that might be of interest to those of you in the audience.

The purpose of my remarks today, is, of course, to discuss the impact of Brown v. the Board of Education and that impact of what it is and how it continues to have an impact on my own particular institution, that being West Virginia University. I am speaking to you today, ladies and gentlemen, from three perspectives; one as a lawyer who can't resist discussing some of the legal significance of Brown v. the Board of Education, certainly as a university president and as one who has been involved in higher education for over 10 years, who sees the impact this decision has on the administration of a public institution, and finally as a person who is deeply committed to the principles of equality in all aspects of our human existence. First, some historical background on the state of higher education, generally and certainly at West Virginia University before the Brown decision. As everyone is well aware, before Brown, the separate but equal doctrine of Plessy v. Ferguson prevailed. Simply put, this meant the races could be segregated as long as the facilities provided for each race were equal. In many respects the separate but equal doctrine in the educational context was but a fiction because while each race may have had its own facility, the quality of education offered at the facility reserved for Blacks was very often, indeed most times, substandard. Significant inroads into the separate but equal fiction were made by the Supreme Court in the field of higher education, even before the Brown v. the Board of Education. Beginning in 1938, the separate but equal standard was more closely scrutinized by the court in several cases in which the adequacy of the graduate or professional degree programs provided for Blacks was challenged. The more careful scrutiny sometimes had tragic results as is illustrated by the effects of the court's decision in Gaines v. Canada, a

case in 1938. At issue in Gaines was a Missouri statute which allowed the state to pay the tuition of Black graduate students at institutions in adjacent states before Missouri did have its own graduate institutions for Blacks. The court determined that Gaines had a right to a substantially equal legal education within the state borders and ordered Missouri to accommodate him. In response to this decision, the Missouri Legislature appropriated $200,000 to establish a special law school for Gaines. Gaines then challenged the adequacy of these ad hoc arrangements, but before a court mandated hearing on this issue could be held, Gaines disappeared and has never been heard from again. Thus, after the Gaines decision, states were required to provide separate institutions for Blacks within their borders in order to comply with the separate but euual standards. Following the mandate of the Supreme Court decision in Gaines, West Virginia University adopted a policy of admitting Black students to its graduate and professional schools because advanced educational programs were not available at the then strictly Black West Virginia State College or Bluefield State College. The separate but equal doctrine in higher education was defined even further in two 1950's Supreme Court cases in which the court for the first time took a close look at what "equal" meant in the context of graduate and professional education. In the first case, Sweatt v. Painter, the Supreme Court found that the petitioner, who was denied admission to the all-white University of Texas Law School, had been deprived of his right to equal education because the University of Texas Law School was superior to the all-Black Texas State University. For the first time, the Supreme Court recognized that a certain institution may possess, and this is their direct quote, "those qualities which are incapable of objective management but which make for greatness." Accordingly, the University of Texas Law School is required to open its admissions to all persons regardless of race. In the companion case of McLaurin v. Oklahoma State Regents, the court was asked

to probe even deeper into the meaning of equal education. In McLaurin, a Black student who was admitted to the graduate school of education was required to sit at a specially designated desk adjoining the classroom, to sit at a specified desk on the library mezzanine and to sit at a special table and eat at a different time from other students in the school cafeteria. He sued to force the University to lift these conditions. The Supreme Court granted him the relief he requested, finding that the conditions which had been imposed on him impaired his right to have an equal education, which included the opportunity to study with his fellow students, again his right.

As the result of these two cases, the equality component of the separate but equal doctrine for the first time began to have more substance and the stage was set for the famous Brown v. Board of Education decision of which we are speaking today. Clearly some progress has been made in the field of higher education, however, prior to the Brown decision undergraduate educational opportunities at West Virginia University were available only to white students because both the West Virginia Constitution and a statute prohibited the mixing of races in public schools. The affirmative duty to integrate was not established until the Brown decision in 1954 by Chief Justice Earl Warren. The Brown decision which was handed down on May 17, 1954 spawned an almost immediate response at West Virginia University. On May 21, four days later, Dr. Ervin Stewart, the president of West Virginia University, wrote to the attorney general of West Virginia asking for an opinion on whether West Virginia University should admit in-state and out-of-state Black students to the undergraduate programs at the University. Because the Brown decision arose from cases which involved only elementary and secondary schools--not colleges and universities--there was some initial doubt in a variety of corners, about whether the Brown decision would apply to public colleges and universities.

The state attorney general soon put these doubts to rest and ruled that the tenor of the Brown decision indicated that it applies with equal force to state educational institutions of higher learning. After receiving the attorney general's opinion, President Stewart reported to the president of the board of governors that he was putting the ruling into effect immediately for the summer session. According to the historical accounts, West Virginia University became integrated promptly and unlike so many southern schools that surrounded it, this integration was without incident and public furor. The mandate of Brown v. the Board of Education was clear on segregation in public education. Implementation of this mandate, as we all know, was very difficult. The courts were initially quite lenient in permitting the states flexibility in the development of their own methods to achieve integration. Some southern states actively resisted attempts to achieve integration. Three years after the Brown decision, 52 percent of the formerly all-white colleges in the south had token desegregation. Some public colleges and universities in Florida, Georgia, and Mississippi and South Carolina remained closed to Black students. Many of us in this room can recall that terrifying violence which erupted in parts of the South as Black students asserted their constitutionally guaranteed right to a higher education in an integrated institution. This violence, as costly and tragic as it was, did bring some positive results. The first result was that the Supreme Court began to signal that the patience that it had exhibited for nearly 10 years, in allowing states to implement Brown v. Board of Education with all deliberate speed, was exhausted. In one case the court asserted that the time for deliberate speed had run out. The court's impatience was again displayed a year later when it made it clear that the delays in desegregating school systems are no longer tolerable, thus all public institutions were constitutionally required to take affirmative steps to integrate immediately. Also, around this time, the Civil Rights Act of

1964 was enacted. This comprehensive legislation, passed after the assassination of President Kennedy, had and continues to have an enormous impact on both higher education generally and West Virginia University specifically. Basically, Title Six of the Civil Rights Act prohibits discrimination in any program which receives federal funds. As a land grant institution, West Virginia University receives significant federal funding and is therefore subject to Title Six non-discrimination requirements. In addition to the Title Six statutory requirement as an institution which in the past had de jure segregation, West Virginia University also falls under the Adams states court order of which Dr. Cole spoke. The Adams state litigation began in 1970 as a lawsuit against the Department of Health, Education and Welfare (HEW) in which the plaintiffs, Black students and their families, claim that the HEW officials had defaulted in the administration of their Title Six duty to enforce desegregation. Specifically the students claim that HEW officials had failed to institute enforcement proceedings against states which had not submitted adequate desegregations plans, yet, which continued to receive federal funding. This litigation which has been long and complicated has resulted in a court order under which the public institutions of several states including West Virginia University must submit their desegregation plans to the Department of Education's Office of Civil Rights. Under the Adams court order, we submit a Title Six annual progress report, which sets forth our continuing committment to offering quality education to all students regardless of race, color, national origin, sex or ethnic background. Our plan emphasizes our commitment to pledge our best efforts and to recruit and retain Black students, faculty and staff and to overcome any vestiges of segregation. Our plan states our long term goals and the methods we will use to meet these goals. Last year in our effort to recruit minority students from West Virginia for our undergraduate program, we made approximately 39 visits or

presentations around the state. Some of these presentations were to large civic or church groups and some were family interviews. We also made approximately 89 visits or presentations of a similar nature to recruit out-of-state applicants. On campus, West Virginia University sponsored a minority introduction to engineering seminar and a health science seminar for minority and middle school students. In addition to these formal activities, deans and vice-presidents and various advisory groups have been and are making concerted efforts to informally contact minority students to encourage their attendance at the University. On the graduate and professional school level we have made similar efforts to recruit qualified minority students, notably, at the law school. A minority scholarship fund has been established and a task force to examine minority recruitment and retention problems has been appointed. At the Medical Center, there are plans for a summer enrichment program for minority students. Unfortunately, we have been hampered in our recruitment efforts to a certain extent because of the financial incentives that are offered by other neighboring institutions. These incentives have the effect of luring away some of the minority students who are otherwise interested in the University. We have also directed significant efforts to the retention of our minority students. We recognize that the increasing cost of education makes it even more difficult for those who have been historically economically disadvantaged, to meet their educational goals. So, last year, 97.1 percent of the Black students at West Virginia University who sought financial aid received it. We also recognize our responsibility to assist those students who find the transition into university life difficult, both academically as well as socially. Last year a models program was established to assist students in their transition. The models program relies on upper classmen in good academic standing to help freshmen maintain a good average and get involved in campus life. The mentor program asks older students who are associated with the university to agree to serve as mentors to two new students. Our Office of

Minority Student Affairs and the Black Unity Organization have worked together to organize certain campus activities for the Black students. Last year these activities included the Black Unity Organization sponsorship of a homecoming court, a newsletter, Black History Month and Black Awareness Week. This year we were extremely fortunate to host the Booker T. Washington exhibit which was a tremendous honor and opportunity for all of us on campus to share in an important part of our history and the history of this state.

I have not yet spoken to you today about our efforts in the area of faculty and staff recruitment and retention because of the time constraints. Be assured that just as we have devoted substantial efforts toward living up to our commitment to end the vestiges of segregation of students, we have also made determined efforts to recruit and retain faculty and staff. We have not been successful in the recruitment or retention of faculty and staff as we hope to be in this area for two primary reasons. Our institution has not been able to offer competitive salaries and Morgantown is still a relatively small rural community with few minority families and therefore, not perceived as being an especially attractive place in which to relocate. However, we have an affirmative action plan, which has been accepted by the United States Department of Labor and we will remain committed to it. We have also not been entirely successful in all our efforts to recruit and retain minority students. Not all of our goals have been met. We remain a predominantly white institution. But instead of being discouraged by our failures, we are redoubling our efforts. We will remain steadfast in our effort to recruit and retain not only minority students but faculty and staff who are representatives of the minorities which were so long effectively excluded.

I do not view our duty in this area to be merely a legal one. It is more than that. I view our duty at West Virginia University as a moral duty, one apart from the mandate of Title Six, one not clearly required by Brown v. the

Board of Education but one which is motivated by the spirit of Brown. Our duty is one which is true to the words of Chief Justice Warren in Brown when he said, and I quote, "Today education is perhaps the most important function of state and local governments. Compulsory school attendance laws and the great expenditures for education both demonstrate our recognition of the importance of education to our democratic society. It is required in our performance of our most basic public responsibility, even service in the armed forces. It is the very foundation of good citizenship today; it is the principle instrument in the awakening of the child to cultural values and preparing him for later professional training and in helping him to adjust normally to his environment. In these days it is doubtful that any child may reasonably be expected to succeed in life if he is denied the opportunity of an education. Such an opportunity where the state has undertaken to provide it, is a right which must be made available to all on equal terms."

We have so much to gain as people, as an institution when we encourage and seek to promote diversity. To borrow from the title of a chapter in a book by Lawrence Marcus and Benjamin Stickney, entitled Race and Education, the Unending Controversy, the Brown decision was the second Declaration of Independence. Its impact on higher education has been no less significant than that of the first Declaration of Independence on the colonists. For just as the former colonists were set free to chart their destiny, so were millions of formerly enslaved young Blacks set free by Brown from the shackles of segregation. They too were finally permitted and eventually encouraged to pursue the ultimate freedom--the freedom to obtain a quality education. Thank you very much.